IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MELVIN KNIGHT,)	2:12cv984
·)	Electronic Filing
Plaintiff,)	
)	District Judge David S. Cercone
v.)	Chief Magistrate Judge Lisa Pupo Lenihan
)	
JOHN R. WALTON, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

AND NOW, this ______ day of March, 2014, after the Plaintiff, Melvin Knight, filed an action in the above-captioned case, and after a Report and Recommendation (ECF No. 66) was filed by the United States Magistrate Judge giving the parties until March 10, 2014, to file written objections thereto, and granting an extension until March 27, 2010, for objections to be received by the Court, and no objections having been filed or received, and upon independent review of the record, and upon consideration of the Magistrate Judge's Report and Recommendation, which is adopted as the opinion of this Court,

IT IS HEREBY ORDERED that for the reasons set forth in that Report and Recommendation, the Motion to Dismiss filed by the Nurse Defendants (ECF No. 47) is GRANTED as to Count XVIII against Nurse Harr and DENIED as to Count XIX against Nurse Kincaid.

IT IS FURTHER ORDERED that for the reasons set forth in the Report and Recommendation, the County Defendants' Motion to Dismiss (ECF No. 50) is **GRANTED** as to Counts I and XV (access to courts); Count XVI (excessive force); Counts II and IV (failure to

¹ Plaintiff filed a Motion for Leave to Withdraw Proposed Objections (ECF No. 68) on March 27, 2010. In his motion, he states that he will not be filing any objections to the Magistrate's Report and Recommendation.

intervene); Counts V, X, XI, XIV (retaliation); Counts III and XVII (due process); Count XX (failure to train subordinates); Counts XXI and XXII (conspiracy); and Count XXIII (preclusion to exhaust administrative remedies). The Motion to Dismiss is **DENIED** as to Counts VI, VIII, XII (excessive force); Counts VII, IX, XIII (failure to intervene); and Count XIX (deliberate indifference to physiological needs). The Motion to Dismiss is **DENIED WITHOUT**PREJUDICE as to Count XXIV (mental and emotional injury).

IT IS FURTHER ORDERED that Defendant J. Williams is DISMISSED WITHOUT PREJUDICE for the Plaintiff's failure to prosecute.

IT IS FURTHER ORDERED that Amendment of the Complaint as to the Counts where the Plaintiff has failed to state a claim is futile and such relief is not granted.

AND IT IS FURTHER ORDERED that this case is remanded back to the Magistrate Judge for all further pre-trial proceedings.

David Stewart Cercone United States District Judge

cc: Honorable Lisa Pupo Lenihan Chief United States Magistrate Judge

> Melvin Knight KR 9608 SCI Greene 175 Progress Drive Waynesburg, PA 15370 (Via First Class Mail)

Thomas P. Pellis, Esquire Jennifer M. Kirschler, Esquire George P. Kachulis, Esquire (Via CM/ECF Electronic Mail)